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10/600,746

06/19/2003

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10/20/2006

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EXAMINER

SMITH, CREIGHTON H

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/600,746

Applicant(s)

KJELLBERG ET AL.

Examiner

Creighton H. Smith

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 7.17.06, 9.27.06, 10.14.05
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Namba et al '385 or Gidron et al.

Namba et al disclose the downloading of content data to a wireless device, col. 4, lines 1-5; a server system (50), col. 5, lines 54-55, that store various data contents and profiles of such data in its storage. Namba et al disclose that plural content items, i.e., various data such as video, sound, and graphics, col. 10, lines 35-48, are the downloadable data items.

Namba et al disclose in cols. 5-6, lines 66-67 & 1-10, that they use an evaluation function to determine which communication system, A or B, to use that corresponds/suitable for the contents of the data. Some of the different types of communications systems contemplated by Namba et al are PDC, CDMA, W-CDMA, PHS, LAN, or the like, with the communication system (PDC, CDMA, W-CDMA, PHS, etc.) that corresponds to the contents of the data. In col. 9, lines 21 et seq, Namba et al disclose a request signal for data from the mobile terminal 10 to a provider 400. That request signal includes a mobile profile (various information including moving speed, communication rate, terminal environment, user environment, and the like. The provide

400 will then access site 300, in response to a user's request signal to check to check if the site 300 has the contents which are requested by the user. Namba et al next discloses that a profile M1 is divided into 3 profiles: M2a, M2b, M2c. Each one of the profiles M2a-M2c contains various information including the specification of division of the data, specification of the data path (*specification of the communication system*), data wait time, delivery time and the like.

Therefore, with Namba's disclosure in col. 6 of the different communications systems (PDC, CDMA, W-CDMA, PHS, LAN, etc.), and the disclosure in col. 9 of each of the profiles M2a-M2c specifying a certain communication system, like those systems disclosed in col. 6, it is readily apparent that Namba et al has different provisioning models that correspond to the different terminal's capabilities.

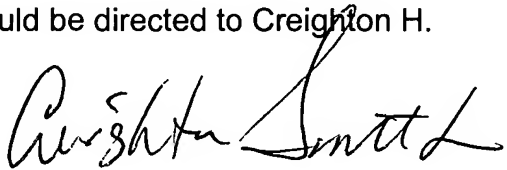
See ¶ 0042 of Gidron et al.

Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 5-8 are allowed.

Any inquiry concerning this communication should be directed to Creighton H. Smith at telephone number 571/272-7546.

16 OCT '06

  
Creighton H Smith  
Primary Examiner  
Art Unit 2614